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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1972

No. 72-974

SAMUEL L. POPKIN

v.

UNITED STATES

ON APPEAL FROM AN ORDER OF THE
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

[redacted]

BRIEF OF AMERICAN ANTHROPOLOGICAL ASSOCIATION, AMERICAN POLITICAL SCIENCE ASSOCIATION, and AMERICAN SOCIOLOGICAL ASSOCIATION, AMICUS CURIAE

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ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
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MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE

American Anthropological Association, the American Political Science Association and the American Sociological Association hereby respectfully move for leave to file the attached brief amicus curiae. The consent of the attorneys for the petitioner and respondent has been obtained and is filed herewith.

The interests of the American Anthropological Association, the American Political Science Association and the American Sociological Association in this case are more fully set forth in the brief.

Amicus curiae have been unable to file this brief previously because their governing bodies have been unable to meet to grant the specific authorization.

WHEREFORE, the premises considered, the American Anthropological Association, the American Political Science Association, and the American Sociological Association, respectfully request leave to file the brief attached hereto as amicus curiae in support of the Petition for Writ of Certiorari.

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I.

INTERESTS OF AMICI

The following learned societies join together in support of a petition for a writ of certiorari to the U.S. Court of Appeals for the First Circuit.

1. The American Anthropological Association was founded in 1902 to advance the science of anthropology in all its branches, to encourage anthropological research and to promote the wide recognition and constant improvement of professional standards in anthropology. The Association now has over 8500 individual members.

At its 71st Annual Meeting in November 1972, the Council of the AAA passed a motion empowering the Association to intervene as a friend of the Court in Petitioner Popkin's behalf. The motion stated in pertinent part: "His case lays bare the fundamental issue before us: the responsibility of the scholar to protect his subjects and to ensure the anonymity of his sources, a responsibility that is essential to the right to conduct freely scholarly research for the purpose of disseminating knowledge to the public."

2. The American Political Science Association, founded in 1903, has as its central purpose the encouragement of the study of political science, including political theory, political institutions, politics, public law, public administration and international relations. It now has over 13,500 individual members.

The Council of the Association at its December 18, 1973, meeting expressed its concern in the matter of Samuel Popkin and related issues and in this connection, the Association is authorized to join in this brief.

3. The American Sociological Association, founded in 1905, is a nationwide organization that seeks to stimulate and improve research, instruction, and discussion and to encourage cooperative relations among persons engaged in the scientific study of society. The Association now has over 15,000 individual members.

The Council of the Association meeting on December 2, 1972, expressed its concern in the matter of Samuel

Popkin and related issues. The members of the Council were deeply disturbed by the inhibiting effect on basic research in the social sciences that the imprisonment of such a scholar as Samuel Popkin might have.

II.

WORK OF SCHOLARS

The effect of Samuel Popkin's appearance before a grand jury and resultant action against him has implications affecting the work of scholars engaged in research.

Scholars contribute information essential to the society and to the policy-making function of the government. For example, scholars have conducted research sponsored by a variety of government and private agencies in areas such as crime, civil disorder, pornography, health care, violence, immigration, population control, conduct and administration of elections, and the use of drugs. In many cases, researchers have uncovered information vital to the understanding of these problems which would not have been obtained had their sources not believed that the researchers could safely assure them of confidentiality. Such information is clearly necessary for the public interest in general and for the informed formation of national policy in particular.

The American Anthropological Association's Principles of Professional Responsibility provide that sources have a right to remain anonymous and that anthropologists should do everything within their powers to protect the privacy of the people being studied. Sociologists and political scientists are equally concerned that their sources be protected.

III.

IMPORTANCE OF PROMPT DECISION

In the past scholars believed they were able to assure sources of anonymity because the release of any information gained was deemed to be solely within the scholar's discretion. Recently, however, with increasing number, prosecutors, congressional committees and grand juries have become interested in the sources of scholarly research. As in the instant case these bodies have asserted the right to inquire completely into a scholar's sources of information. Notes have been subpoenaed and scholars questioned as to their research. As a result, scholars carrying out their research are no longer secure in the belief that research material provided them in confidence will be free from pressure of court ordered disclosure at a future point and as such are impaired in the collection of research data.

The problem has been aggravated by the widespread publicity given to the instant case. Until limits of public inquiry are authoritatively settled by this Court, scholars cannot be certain of what protection, if any, they can assure their sources, and sources cannot predict the possible repercussions of cooperation in furnishing information. The resulting uncertainty impinges upon normal scholarly inquiry and inhibits research into many social and behavioral problems most in need of immediate research and enlightenment.

IV.

IMPORTANCE OF GUIDELINES IN BALANCING INTERESTS

The public interest in uninhibited original scientific research, whether in the social or other sciences, is as important as any other public interest. Freedom of scientific discussion and the free flow of information are ultimately dependent on unrestrained original research. Such research constitutes a significant part of a society's eyes and ears.

Amici support the position that before requiring a scholar to testify or furnish documents, a court should balance the interest of the inquiring agency against the First Amendment rights of the scholar. This issue is fairly posed in the instant case. Guidelines from the Court are needed to determine the balance between the scholars' free speech rights and grand juries' rights.

The Petition for Certiorari should be granted.

Respectfully submitted,

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